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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,909	02/11/2004	Louis R. Degenero	YOR919990064US2 (8728-258)	3057
46069	7590	06/26/2009	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797				BRAGDON, REGINALD GLENWOOD
ART UNIT		PAPER NUMBER		
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06/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: LOUIS R. DEGENARO, ARUN K. IYENGAR, and
ISABELLE M. ROUVELLOU

Application 10/776,909
Technology Center 2100

Mailed: June 25, 2009

Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 29, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

FINAL REJECTION, EXAMINER'S ANSWER

On October 18, 2006 a Final Rejection was mailed. The Final rejection states that claims 1-51 are pending in the application and claims 1-51 are rejected. The Final Rejection includes the following rejections:

- Claims 1-3, 5, 8-11, 14, 18-20, 22, 25-28, 42 and 46 are rejected under 35 U.S.C. § 101.
- Claims 1-48 are rejected under the judicially created doctrine of double patenting over claims 1-37 of U.S. Patent No. 6,725,333.
- Claims 42-44, 46-48 are rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.
- Claims 1, 5, 10, 18, 22, 27, 35, 39, 40, 41 and 45 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nakanishi.
- Claims 1, 2, 4-6, 8, 18, 19, 21, 23, 25, 35, 36, 38-41, and 45 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dubey.
- Claims 1-8, 10, 14-25, 27 and 31-48 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cytron.
- Claims 9 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cytron in view of Levine.

However, claims 49-51 were not included in the rejections. Please provide the status of these claims.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) to enter a paper clarifying the disposition of claims 49-51 (if claims are allowable); or
- 2) to vacate the Examiner's Answer mailed September 21, 2007;
- 3) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 4) to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWH/cdc

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